

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7431 of 2017

Reserved on 18/09/2018

Delivered on 14/12/2018

Smt. Usha Choubey D/o Late Shri Jagdish Choubey, Aged About 45 Years Sankul Samanvayak Cluster Academic Co-Ordinator, Sankul Kendra- Asola, Block Ambikapur, Police Station And Tahsil Ambikapur, District Surguja, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
2. Mission Director, State Project Office Rajeev Gandhi Shiksha Mission, Chhattisgarh, Raipur, Chhattisgarh.
3. The Collector And District Mission Director, Rajeev Gandhi Shiksha Mission Sarva Shiksha Abhiyan, Surguja, Ambikapur, District Surguja, Chhattisgarh.
4. Chief Executive Officer, And District Project Director, Rajeev Gandhi Shiksha Mission, District Surguja, Chhattisgarh.
5. District Education Officer, District Surguja Ambikapur, Chhattisgarh.
6. District Mission Co-Ordinator, Rajeev Gandhi Shiksha Mission, Ambikapur, District Surguja, Chhattisgarh.
7. Block Education Officer, Block Ambikapur, District Surguja, Chhattisgarh.
8. Assistant Block Education Officer, Block Ambikapur, District Surguja, Chhattisgarh.
9. Block Resource Centre Co-Ordinator, Block Resource Centre- Ambikapur, District Surguja, Chhattisgarh.
10. Sankul Kendra Prabhari, Sankul Kendra- Asola, Block Ambikapur, District Surguja, Chhattisgarh.
11. Tarun Singh, Sankul Samanvayak Temporary/ Ad-Hoc, Sankul Kendra- Asola, Block Ambikapur, District Surguja, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Manoj Mishra, Advocate
For Respective Respondents	:	Mr. A.S. Kachhawaha, Advocate along with Ms. Pushpa Dwivedi, Advocate Mr. Mateen Siddiqui, Advocate

Hon'ble Shri Justice P. Sam Koshy

C.A.V. ORDER

1. The present writ petition has been filed challenging the order Annexure P/1 dated 06.11.2017, whereby the petitioner has been removed from the post of Cluster Coordinator (संकुल समन्वयक) and has been ordered to be posted at her substantial post as Teacher Panchayat at Govt. Middle School, Devgarh.
2. The facts of the case is that the petitioner was initially appointed as a Teacher Panchayat at the Govt. Middle School, Devgarh, Block Asola, District Surguja. In the year 2016, selection process for the post of Cluster Academic Coordinator (in short "CAC") was initiated for the different cluster centers in District Surguja. The petitioner also participated in the said selection process and was selected as a CAC for 5 years vide order dated 01.12.2016 (Annexure P/2). It is said that the petitioner continued to discharge the duties of a CAC till the impugned order was passed on 06.11.2017, whereby the petitioner was relieved of her post as CAC and has been sent to her substantive place of posting i.e. at Govt. Middle School, Devgarh.
3. The contention of the petitioner assailing the impugned order is that the action on the part of the respondents is in total violation of the principles of natural justice. According to the petitioner, the impugned order has been passed without giving proper opportunity of hearing to the petitioner. It was also the contention of the petitioner that the impugned order was in violation of the terms and conditions by which the petitioner was appointed as a CAC. Lastly, it was contended that the order has been passed with malafide intention. The allegation of malafides was being raised by the petitioner on the ground that since as a CAC, the petitioner had called for a special meeting of the incharge of the different centers in the cluster, who were not happy with

the meeting, which the petitioner intended to call therefore they had agitated against the petitioner and filed false complaints against the petitioner on account of which the impugned order was passed. Thus the same deserves to be interfered with.

4. The ground of malafides raised by the petitioner is that of false complaints being raised by the incharge of the different centers in the cluster on account of the sudden surprise inspections, which were conducted by the petitioner and as the petitioner was not satisfied with the performance of few of the centers, which she inspected. This also gave rise to the filing of false complaint against the petitioner and for this reason, the petitioner sought for the setting aside of the impugned order and has also sought for a direction to restore the status of the petitioner as a CAC for the Asola cluster.
5. Per contra, counsel for the respondents opposing the petition submitted that it is a case where there have been lot many complaints received in respect of the illegalities and irregularities committed on the part of the petitioner in the course of discharging of her duties of as CAC. It was also the contention of the respondents that the impugned order has been passed pursuant to an inquiry, which was conducted and where the allegations were found to be true. It was also the contention of the respondents that the behavior of the petitioner was also not proper as there were lot many complaints in respect of her misbehavior with the other staff members, particularly the persons working in the different centers and there were also an F.I.R. lodged in this regard at Police Station Ambikapur on 08.09.2013. It was also the allegation by the respondents that the petitioner had taken certain advances from one of the clusters incharge, however no proper vouchers or details of the

expenditure met, was provided, which gave rise to the charge of financial irregularities and where there was not much explanation provided by the petitioner.

6. Having heard the contentions put forth on either side and on perusal of the record, what clearly reflects from the pleadings made by the petitioner as well as by each of the respondents in their reply is that the substantive appointment of the petitioner was that of a Teacher Panchayat. The petitioner subsequent to her appointment as a Teacher Panchayat was also selected as the CAC. She was discharging the duties of CAC since 01.12.2016 till the impugned order was passed.
7. From the pleadings, it also reflects that the petitioner pursuant to the impugned order having been passed, was placed under suspension, which was subsequently also revoked and she has also further been transferred from the Govt. Middle School, Devgarh to the Govt. Middle school, Kesra, Block Mainpat.
8. Now coming to the impugned order what reflects is that the order passed is not one by which the petitioner has been terminated from service, rather it is a case where the impugned order holds that the petitioner stands relieved from her assignment as a CAC and stands posted back to her original place of posting i.e. Teacher Panchayat, at the Govt. Middle School, Devgarh. The impugned order would also reflect that it had the approval of the District Collector, who is also the District Mission Director under the Rajeev Gandhi Shiksha Mission for District Surguja.
9. From the pleadings, it also reveals that before passing the impugned order, there was an inquiry conducted and in the course of the inquiry, the statements of different complainants were recorded as well as the

statement of the petitioner was also recorded and it was thereafter that the inquiry report was submitted holding that the petitioner was found to have committed irregularities and in addition there were also allegations of misbehaviour.

10. What cannot be brushed aside is the fact that the order was not without any basis. It also cannot be lost sight of that by the impugned order, the petitioner has only been relieved of her charge as a CAC but the petitioner continues to hold the post of a Teacher Panchayat. That vide impugned order, the petitioner has been posted back to her substantive post. This would further establish that the petitioner, except for the fact that she would no longer be discharging the duties of a CAC, would continue to work as a Teacher Panchayat and would also be receiving all the wages and allowances payable to a Teacher Panchayat which she was drawing, even as a CAC. Thus there is no substantial loss, detriment or prejudice caused to the substantial right of the petitioner on the post of Teacher Panchayat.
11. What is also reflected from the pleadings is that subsequent to the impugned order having being passed, the respondent No.11 has also been given the charge of CAC in place of the petitioner until further orders and the respondent No.11 also has assumed the charge and since then is discharging the same.
12. It is by now a well settled position of law that the High Court in exercise of its power under Article 226 of the Constitution of India, would only scrutinize the decision making process and not the decision in exercise of its power of judicial review. The pleadings reflect that before passing of the impugned order, the authorities did conduct an inquiry. The complainants as well as the petitioner both were taken into confidence

and their respective statements were recorded. Thus the basic principles of natural justice have in fact been complied with. Moreover, by the impugned action, it is only the additional charge that the petitioner was discharging that has been taken away from the petitioner and relieving her from the same, she has been sent to her substantive post of Teacher Panchayat.

13. Considering the pleadings, which have been brought forth by the respondents in their reply, particularly considering the nature of allegations that were leveled and the fact that the petitioner substantively is working as a Teacher Panchayat with the additional responsibility of a CAC and a vast majority of peoples, who were working along with the petitioner being unhappy with the manner, in which she was performing her duties. In addition to there being certain complaints of irregularities and misconduct, it cannot be said that the impugned action on the part of the respondents to be in any manner bad in law, arbitrary or illegal.
14. Considering the entire factual matrix of the case and the contentions put forth on either side, particularly that of the respondents No.1 & 2, this Court is of the opinion that no strong case, as such, has been made out by the petitioner calling for an interference with the impugned order. The writ petition therefore being devoid of merit deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge